

CIVIL CASE MANAGEMENT PLAN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

Jesse Angevine

v.

NO. 9 : 22 CV 247 (MAD/ML)

C.O. Nathan Hatfield et al

IT IS HEREBY ORDERED that, pursuant to Rule 16(b), Federal Rules of Civil Procedure, a status and scheduling conference will be held in this case before the Honorable MIROSLAV LOVRIC, United States Magistrate Judge on June 9, 2022 at 1:30 P. M. at the United States Courthouse, Room No (telephonic), at (telephonic), New York.

Counsel for all parties or individuals appearing pro se in the above-captioned action are directed to confer in accordance with Fed. R. Civ. P. 26(f) with respect to all of the agenda items listed below, no later than **twenty-one (21) days** before the scheduled Rule 16 Conference. Following that Rule 26(f) conference, a report of the results of the conference, in the format set forth below, must be filed with the clerk no later than seven (7) **days** prior to the scheduled Rule 16 conference with the Court. Matters which the Court will discuss at the status conference will include the following: (insert a separate subparagraph as necessary if parties disagree):

1) JOINDER OF PARTIES: Any application to join any person as a party to this action shall be made on or before July 8, 2022.

2) AMENDMENT OF PLEADINGS: Any application to amend the pleadings to this action shall be made on or before July 8, 2022.

3) DISCOVERY: All discovery in this action shall be completed on or before December 30, 2022. (**Discovery time table is to be based on the complexity of the action**)

4) MOTIONS: All non-dispositive motions shall be made on or before January 6, 2022. All dispositive motions shall be made on or before March 3, 2023. (**Non-Dispositive motions including discovery motions may only be brought after the parties have complied with Section IX of General Order #25**)

5) EXPERT WITNESS DISCLOSURE: Plaintiff's Expert Witness disclosure shall be exchanged on or before September 30, 2022 (at least 90 days before the close of discovery). Defendant's Expert Witness disclosure shall be exchanged on or before November 15, 2022 (at least 45 days before the close of discovery). Rebutal Expert Witness Disclosure shall be exchanged on or before November 30, 2022 (at least thirty days before the close of discovery).

6) MANDATORY MEDIATION: A stipulation selecting mediator must be filed on or before _____. Mediation must be completed on or before _____.

7) PROPOSED DATE FOR THE COMMENCEMENT OF TRIAL: The action will be ready to proceed to trial on or before September 4, 2023. It is anticipated that the trial will take approximately 4 days to complete. The parties request that the trial be held in Albany, N.Y.

(The proposed date for the commencement of trial must be within 18 months of the filing date unless the case is designated as complex).

8) HAVE THE PARTIES FILED A JURY DEMAND: ☒ (YES) / ☐ (NO)

9) DOES THE COURT HAVE SUBJECT MATTER JURISDICTION? ARE THE PARTIES SUBJECT TO THE COURT'S JURISDICTION? HAVE ALL PARTIES BEEN SERVED?

The Court has subject matter and personal jurisdiction, and all Defendants have been served

10) WHAT ARE THE FACTUAL AND LEGAL BASES FOR PLAINTIFF'S CLAIMS AND DEFENDANT'S DEFENSES (INCLUDE COUNTERCLAIMS & CROSSCLAIMS, IF APPLICABLE)?

Plaintiff alleges that the defendants used excessive force against him.

11) WHAT FACTUAL AND LEGAL ISSUES ARE GENUINELY IN DISPUTE?

Whether Defendant Hatfield used force against Plaintiff. Assuming Hatfield used force, (1) whether the force was excessive and (2) whether the remaining Defendants an opportunity to intervene.

12) CAN THE ISSUES IN LITIGATION BE NARROWED BY AGREEMENT OR BY MOTIONS? ARE THERE DISPOSITIVE OR PARTIALLY DISPOSITIVE ISSUES APPROPRIATE FOR DECISION ON MOTION?

We cannot determine until the completion of discovery.

13) WHAT SPECIFIC RELIEF DO THE PARTIES SEEK? WHAT ARE THE DAMAGES SOUGHT?

Plaintiff seeks compensatory damages, attorney's fees and costs; Defendant seeks dismissal of the Complaint and all monetary relief.

Plaintiff seeks compensatory damages, attorney's fees and costs; Defendant seeks dismissal of the Complaint and all monetary relief.

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14) DISCOVERY PLAN:

A. Mandatory Disclosures

The parties will exchange the mandatory disclosures required under Rule 26(a)(1) at least seven (7) days prior to the date of the Rule 16 conference, unless they have obtained prior approval from the assigned Magistrate Judge to extend that deadline.

B. Subjects of Disclosure

The parties jointly agree that discovery will be needed to address the following subjects:

All material allegations contained in the Plaintiff's Complaint

C. Discovery Sequence

Describe the parties' understanding regarding the timing of discovery, and state whether it is anticipated that discovery will be phased to address different issues in stages.

D. Written Discovery

Describe the written discovery demands which the parties contemplate serving under Rules 33, 34 and 36, including when they will be promulgated, the areas to be covered, and whether there is any need for any party to exceed the number of interrogatories permitted under Rule 33.

Written demands (including those made pursuant to FRCP 33, 34 and/or 36) are anticipated to be served by the parties by or before July 8, 2022.

The parties do not presently anticipate a need to exceed the permitted number of interrogatories

E. Depositions

Set forth the parties' expectations regarding depositions, including the approximate number to be taken, their location, a general description of the deponents, and an indication of whether any non-party fact depositions are anticipated.

Depositions of the Plaintiff and Defendants are anticipated, as well as individuals identified through discovery and experts.

Depositions will be conducted at a time and in a manner mutually agreeable to both parties.

F. Experts

Set forth the parties' expectations regarding the retention of experts, and identify any particular issues to be addressed by the court concerning the retention and exchange of the information regarding experts, including whether the parties seek a variance from the expert disclosure requirements of the form uniform pretrial scheduling order typically issued by the court (i.e., initial expert disclosure at least ninety days, responsive expert disclosures at least forty-five days, and rebuttal reports due at least thirty days, before the close of discovery).

G. Electronic Discovery

Set forth the parties' understanding and expectations regarding discovery of electronically stored information. This description should include any agreements reached with respect to the retention of electronically stored information and the manner in which it will be produced, if requested. The parties should also identify any agreements regarding the manner in which electronically stored information subject to claims of privilege or work product protection will be handled, and whether a court order will be requested, either on stipulation or otherwise, to address this issue. If an agreement has been reached on the entry of such an order, provide a brief description of the provisions which will be included in a proposed order.

ESI will be produced in accordance with FRCP 34; the parties initially anticipate that any disputes over ESI production can be resolved amicably and without intervention by the Court.

H. Protective Orders

If the parties anticipate requesting a protective order from the court pursuant to Rule 26(c), describe the basis for the request and nature of the proposed protective order.

None known at this time, but we will apply to the Court should a need arise.

I. Anticipated Issues Requiring Court Intervention

Provide a brief description of any discovery related issues which, the parties reasonably anticipate, may require court intervention.

At this time the parties do not anticipate a need for the intervention of the Court with respect to any known issues.

15) IS IT POSSIBLE TO REDUCE THE LENGTH OF TRIAL BY STIPULATIONS, USE OF SUMMARIES OR STATEMENTS, OR OTHER EXPEDITED MEANS OF PRESENTING EVIDENCE? IS IT FEASIBLE AND DESIRABLE TO BIFURCATE ISSUES FOR TRIAL?

The parties do not anticipate a reduction in trial length but will re-examine this matter during and after discovery.

The parties do not consider bifurcation of any issues preferable at this time.

16) ARE THERE RELATED CASES PENDING BEFORE THE JUDGES OF THIS COURT?

No.

17) IN CLASS ACTIONS, WHEN AND HOW WILL THE CLASS BE CERTIFIED?

N/A

18) WHAT ARE THE PROSPECTS FOR SETTLEMENT? Please circle below the prospect for settlement:

1----2----3----4----5----6----7----8----9----10
(VERY UNLIKELY)→ → → → → → → → → → (LIKELY)

CANNOT BE EVALUATED PRIOR TO _____ (DATE)

HOW CAN SETTLEMENT EFFORTS BE ASSISTED?

It is unknown if and how settlement efforts can be assisted at this time.

(Do not indicate any monetary amounts at this time, settlement will be explored by the Magistrate Judge at the time of the initial status conference)

COMPLETE QUESTION 19 ONLY IF YOUR FILING ORDER COVERSHEET WAS CHECKED AS AN ADR TRACK CASE - Subject to Mandatory Mediation under General Order #47.

19) IF YOUR CASE WAS SELECTED AS A QUALIFYING MANDATORY MEDIATION CASE, CONFIRM THAT YOU HAVE:

- A. Reviewed General Order #47 ? YES/NO
- B. Reviewed the List of Court Approved Mediators available on the NDNY website? YES/NO
- C. Prepared to discuss with the Court, at the conference, whether your case should be opted out of the program. YES/NO
- D. Discussed the time frame needed to complete Mandatory Mediation? YES/NO

Pursuant to Fed. R. Civ. P. 26(f) a conference was held on _____ at _____ with the participation of: (Date) (Place)

_____ for plaintiff(s)

_____ for defendant(s) _____ (party name)

_____ for defendant(s) _____ (party name)

At the Rule 16(b) conference, the Court will issue an order directing the future proceedings in this action. The parties are advised that failure to comply with this order may result in the imposition of sanctions pursuant to Federal Rules of Civil Procedure 16(f).

Please detach this case management plan form and file electronically with the Clerk no later than seven (7) days in advance of the conference date.